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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,913	10/01/2003	Kaushik Rajashekara	DP-310113	8280
22851 7590 05/09/2007 DELPHI TECHNOLOGIES, INC. M/C 480-410-202 PO BOX 5052 TROY, MI 48007			EXAMINER ECHELMAYER, ALIX ELIZABETH	
			ART UNIT 1745	PAPER NUMBER
			MAIL DATE 05/09/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/676,913

Applicant(s)

RAJASHEKARA ET AL.

Examiner

Alix Elizabeth Echelmeyer

Art Unit

1745

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.


AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: the Remarks filed are not convincing. Regarding the 112 rejection, the instant specification does not enable the limitations in claims 14 and 20 concerning the production of waste heat during start-up. Applicants are directed to [0044] of the instant specification, which defines start-up as the time before the fuel cell produces power and heat. Further, in [0012] of the instant specification, it is stated that the SOFC, produces waste heat when producing power. As for the remarks concerning the art rejection, the examiner does not find the arguments convincing. On page 3 of the remarks, Applicants state that Nakayama et al. fail to teach or suggest the claimed invention. The examiner agrees, since Nakayama et al. is being used as part of an obviousness rejection. Applicants also argue that there is no suggestion to combine Nakayama et al. with Nomura et al. because Nakayama et al. do not teach "other sources of heat" (i.e. heat waste from a solid oxide fuel cell system) to heat the air for combustion" (p. 4 of Remarks filed 4/27/07). In claim 2 of the instant invention, the "heat waste" is defined as "heated air." Nakayama et al. teach the use of pre-heated air ([0014]). The examiner recognizes that the heated air is not heat waste from a fuel cell system, but since Nakayama et al. is being used in a 103 rejection, it does not need to teach all elements of the claims. Applicants argue that it is not taught that the combustor is used to provide power upon request when the fuel cell is not operating. Nomura et al. teach the use of the combustor during start-up ([0057]-[0059] of Nomura et al.), so if the combustor-TPV of Nakayama et al. was used as the combustor of Nomura et al., the use of the combustor-TPV during start-up would produce power.


SUSY TSANG-FOSTER
PRIMARY EXAMINER